

# Michigan Violates It's Own Law

## *The Cost Unless Stopped?*

### *80% of U.S. Fresh Water—The Great Lakes*

Michigan has approved Kennecott's permit application for the Eagle Project, a proposed metallic sulfide mine to be blasted through a sacred rock outcropping and under a pristine river that feeds Lake Superior. The permit application is being contested in the state circuit courts and is expected to reach the state's Supreme Court.

If allowed, Eagle would be the first domino of the global mining industry's desired "industrial mining complex" spanning the northern Midwest—along Lake Superior's shoreline from Michigan's Upper Peninsula west to Minnesota's Boundary Waters.

Governor Jennifer M. Granholm stated in her letter to Director Stephen Chester, Michigan Department of Environmental Quality (MDEQ), February 23, 2006:

*I am now directing that you give rigorous and thorough review to Kennecott's permit application and ensure that they meet each and every aspect of the new regulations, and that any authorized activity not harm or impair our public trust resources.*

However, Governor Granholm has not challenged MDEQ after it testified, under oath, that it did not apply the law in reviewing Kennecott's permit application. Despite many requests, the Governor has offered no public comment on metallic sulfide mining since the date of her letter to Director Chester.

#### **A Flavor of State Testimony from the Legal Proceedings**

What follows comes directly from the document *PETITIONERS' JOINT PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW AS TO MINING AND ENVIRONMENTAL IMPACT ASSESSMENT ISSUES*, submitted by the Yellow Dog Watershed Preserve and the National Wildlife Federation, October 15, 2008.

The document states: "MDEQ's Incompetence and Misapplication of Part 632 [Michigan's Non-Ferrous Mining Law] Led to Unwarranted Approval of the Permit"

In the course of considering this application, *DEQ has not*: collected any independent geology data; performed any hydrology fieldwork; or performed a wetlands assessment or delineation

*DEQ did not*: obtain core samples from Kennecott in order to conduct humidity cell testing; conduct a threatened and endangered species survey; assess Eagle Rock for its cultural significance

"DEQ's decision to grant this application is based fully on data provided by the company. . .

.  
Dr. David Sainsbury was the only person on the DEQ Mining Team capable of reviewing, understanding or analyzing the rock mechanics. Mr. Maki did not retain any of Sainsbury's reports and admitted to deleting at least one of them. Dr. Sainsbury wrote in his memo to Mr. Maki,

‘the long term time-dependent behavior of the Eagle crown pillar was not considered in any of the analyses.’ To Mr. Maki’s knowledge, Sainsbury’s concern about the long-term time-dependent behavior of the crown pillar has not been considered.

“Mr. Maki admitted that ‘nothing has been done’ about the information he learned regarding Dr. Sainsbury’s continued criticism of the rock mechanics work in Kennecott’s application.”

Cited from Dr. Sainsbury’s report:

*The analysis techniques used to assess the Eagle crown pillar stability do not reflect industry best practice. In addition, the hydrologic stability of the crown pillar has not been considered. Therefore, the conclusions made within the Eagle Project Mining Permit Application regarding crown pillar subsidence are not considered to be defensible.*

“Mr. Maki does not recall this part of Sainsbury’s report [abbreviated above], nor did he ask Kennecott any questions about induced horizontal strain due to the fact that they were mining underneath water.

“Before this permit issue, Maki had never been responsible for any permitting process. Maki has had a total of a week and a half of course work related to metallic sulfide mining.

“Dr. David Sainsbury was the only person on the DEQ Mining Team capable of reviewing, understanding or analyzing the rock mechanics. Mr. Maki did not retain any of Sainsbury’s reports and admitted to deleting at least one of them.

“When asked whether he applied the [Part 632] standard of the applicant having to demonstrate that they would not pollute, impair or destroy the air, water or other natural resources, Mr. Maki stated that he did not apply this section of the statute to his analysis. Additionally, the Mining Team did not apply this section of the statute to its analysis. Mr. Maki headed the Mining Team that was responsible for recommending approval or denial of the permit.”

Finally, Mr. Maki acknowledged that there is no contingency plan for major catastrophic events and mine collapse.

No Kennecott employees would say under oath that they believed the mine plan to be safe.

For more information:

[SaveTheWildUP.org](http://SaveTheWildUP.org)  
[HeadWatersNews.net](http://HeadWatersNews.net)

[YellowdogWatershed.org](http://YellowdogWatershed.org)  
National Wildlife Federation [NWF.org](http://NWF.org)

[CedarTreeInstitute.org](http://CedarTreeInstitute.org)  
[StandForTheLand.com](http://StandForTheLand.com)